

# EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**WSOU INVESTMENTS, LLC D/B/A  
BRAZOS LICENSING AND  
DEVELOPMENT,**

**Plaintiff,**

**v.**

**DELL TECHNOLOGIES INC.,  
DELL INC., AND EMC  
CORPORATION,**

**Defendants.**

§ **CIVIL ACTION 6:20-CV-00473-ADA**  
§ **CIVIL ACTION 6:20-CV-00474-ADA**  
§ **CIVIL ACTION 6:20-CV-00475-ADA**  
§ **CIVIL ACTION 6:20-CV-00476-ADA**  
§ **CIVIL ACTION 6:20-CV-00477-ADA**  
§ **CIVIL ACTION 6:20-CV-00478-ADA**  
§ **CIVIL ACTION 6:20-CV-00479-ADA**  
§ **CIVIL ACTION 6:20-CV-00480-ADA**  
§ **CIVIL ACTION 6:20-CV-00481-ADA**  
§ **CIVIL ACTION 6:20-CV-00482-ADA**  
§ **CIVIL ACTION 6:20-CV-00485-ADA**  
§ **CIVIL ACTION 6:20-CV-00486-ADA**  
§  
§ **PATENT CASE**  
§  
§ **JURY TRIAL DEMANDED**

**PLAINTIFF’S PRELIMINARY CONSTRUCTIONS**

Plaintiff WSOU Investments, LLC d/b/a Brazos License and Development ( “Plaintiff”) submits the following preliminary constructions pursuant to the Order Governing Proceedings (“OGP”) and the Scheduling Order entered in this case. Plaintiff reserves the right to update, supplement, revise, or otherwise modify these preliminary constructions in light of further investigation and discovery, including evidence not yet produced by Defendants, or in light of modification or supplementation of Defendants’ invalidity contentions. Plaintiff reserves the right to argue that the plain and ordinary meaning should apply to any of the claim terms.

Plaintiff notes that, for certain claim language, Defendants identify entire phrases, without specifying which ones of the terms included within those phrases Defendants seeks to have the Court construe. Plaintiff can presently only guess as to whether Defendants will seek construction of only certain terms included in those phrases.

Group 1

6:20-cv-480-ADA

Terms for U.S. Patent No 7,539,133		Preliminary Construction
1.	“determining, for each packet, whether a congestion condition exists [on/for] the egress node”	Plain and ordinary meaning
2.	“processing the packets”	Plain and ordinary meaning
3.	“means for determining an egress node associated with each of a plurality of packets of a traffic flow received at an ingress node adapted for splitting the traffic flow into a plurality of traffic flow portions independent of the egress node by which each packet is assigned to exit the loadbalancing network”	<p>Subject to means-plus-function construction.</p> <p><b>Function:</b> “determining an egress node associated with each of a plurality of packets of a traffic flow received at an ingress node adapted for splitting the traffic flow into a plurality of traffic flow portions independent of the egress node by which each packet is assigned to exit the loadbalancing network”</p> <p><b>Structure:</b> see, e.g., claims 2 and 3 and corresponding written description; Figs. 1-7, 2:55-3:6; 3:65-4:3; 5:11-17; 9:8-22; 9:37-41; 13:19-31; 14:24-65.<sup>1</sup></p>
4.	“means for determining, for each packet, whether a congestion condition exists on the egress node”	<p>Subject to means-plus-function construction.</p> <p><b>Function:</b> “determining, for each packet, whether a congestion condition exists on the egress node”</p> <p><b>Structure:</b> see, e.g., Figs. 1-7; 5:1-6:12; 9:8-22; 9:41-51; 13:32-47; 14:24-65; 15:12-28.</p>
5.	“means for processing the packets such that packets associated with egress nodes for which the congestion condition does not	Subject to means-plus-function construction.

<sup>1</sup> Citations in this document to the figures (or features thereof) of the subject patent are intended to encompass corresponding written description, and *vice versa*.

Terms for U.S. Patent No 7,539,133		Preliminary Construction
	exist have a different queuing priority within the load-balancing network than packets associated with egress nodes for which the congestion condition exists”	<p><b>Function:</b> “processing the packets such that packets associated with egress nodes for which the congestion condition does not exist have a different queuing priority within the load-balancing network than packets associated with egress nodes for which the congestion condition exists”</p> <p><b>Structure:</b> see, e.g., claim 5 and corresponding written description; Figs. 1-7; 3:7-21; 5:24-38; 6:13-65; 7:26-30; 8:15-25; 8:64-9:22; 9:51-10:29; 10:43-11:8; 13:48-14:12; 14:24-65; 15:45-16:20.</p>

6:20-cv-481-ADA

Terms for U.S. Patent No 9,164,800		Preliminary Construction
1.	“latency cost”	Plain and ordinary meaning
2.	“[determining/determine] an assignment objective”	Plain and ordinary meaning
3.	“assign[ing] [a] compute node[s] from the set of compute nodes to [a] data node[s] from the set of data nodes”	Plain and ordinary meaning
4.	“data node”	Plain and ordinary meaning

6:20-cv-485-ADA

Terms for U.S. Patent No. 7,636,309		Preliminary Construction
1.	“split ratio vector”	Plain and ordinary meaning
2.	“variance associated with at least one of the traffic flows”	Plain and ordinary meaning

6:20-cv-486-ADA

Terms for U.S. Patent No. 7,092,360		Preliminary Construction
1.	“said element comprises: an element for recording whether a queue is empty or occupied, an element for recording the [number of data cells/quantity of data] contained in a queue, an element identifying a queue from which data is to be output, and an element identifying a group of queues from which data is to be output”	Plain and ordinary meaning
2.	“expected state for said element” “predetermined state for said element” “expected value of said parameter” “expected states for that element” “expected status for said element” “expected state of said first element”	Plain and ordinary meaning
3.	“detection means for detecting a state of an element”	Plain and ordinary meaning
4.	“comparing means for comparing the detected state with a predetermined state for said element and for outputting the result of the comparison”	Plain and ordinary meaning
5.	“means for requesting said scheduler model to pass the status of said element to said monitor”	Plain and ordinary meaning
6.	“monitoring means for monitoring a parameter relating to the operation of said scheduler”	Plain and ordinary meaning



Terms for U.S. Patent No. 7,092,360		Preliminary Construction
7.	“determining means for determining an expected state for said element based on said monitored parameter”	Plain and ordinary meaning
8.	“prediction means for determining an expected status for said element”	Plain and ordinary meaning
9.	“determining means for determining an expected value of said parameter”	Plain and ordinary meaning
10.	“comparison means for comparing the detected parameter with said expected parameter and for outputting the result of the comparison”	Plain and ordinary meaning
11.	“means for detecting the state of an element of said scheduler at a plurality of different times and comparing the detected states with expected states and outputting the result of said comparison”	Plain and ordinary meaning
12.	“means for placing said test cells in said queues”	Plain and ordinary meaning
13.	“means for detecting the state of at least one element of said scheduler whose state depends on which queue is selected by said scheduler for outputting a test cell”	Plain and ordinary meaning
14.	“means for detecting from each test cell input to and/or output by said scheduler, the identity of the queue in which contained in said test cell”	Plain and ordinary meaning
15.	“comparison means for at least one of: comparing the detected element status with an expected status for said element based on the detected queue identity and comparing the detected queue identity, with an expected queue identity based on the detected status of said element”	Plain and ordinary meaning

Terms for U.S. Patent No. 7,092,360		Preliminary Construction
16.	<p>“element for recording whether a queue is empty or occupied”</p> <p>“an element for recording the [number of [data] cells/quantity of data] contained in a queue”</p> <p>“an element identifying a queue from which data is to be output”</p> <p>“an element [identifying/indicating] a group of queues from which data is to be output”</p>	Plain and ordinary meaning

Group 2

6:20-cv-473-ADA

Terms for U.S. Patent No. 9,137,144		Preliminary Construction
1.	“group of communication traffic”	Plain and ordinary meaning
2.	“V is a group identifier corresponding to the group of communication traffic”	Plain and ordinary meaning
3.	“contiguous communication path”	Plain and ordinary meaning.
4.	“the plurality of contiguous communication paths”	Plain and ordinary meaning

6:20-cv-478-ADA

Terms for U.S. Patent No. 7,126,921		Preliminary Construction
1.	“a computing means for control of the nodes”	<p>Subject to means-plus-function construction.</p> <p><b>Function:</b> control of the nodes</p> <p><b>Structure:</b> CPU 206</p>

Terms for U.S. Patent No. 7,126,921		Preliminary Construction
2.	“a computing means for controlling the node”	<p>Subject to means-plus-function construction.</p> <p><b>Function:</b> control of the nodes</p> <p><b>Structure:</b> CPU 206</p>
3.	“a data plane means for forwarding packets between the nodes”	<p>Subject to means-plus-function construction.</p> <p><b>Function:</b> forwarding packets between the nodes</p> <p><b>Structure:</b> 4:44-60 (link interface 216 and switching fabric 214)</p>
4.	“data plane means for forwarding packets to other nodes in the network”	<p>Subject to means-plus-function construction.</p> <p><b>Function:</b> forwarding packets to other nodes in the network</p> <p><b>Structure:</b> 4:44-60 (link interface 216 and switching fabric 214)</p>
5.	“means for fast propagation of node related information between the data plane means in each node and forwarding the information to the computing means in the network”	<p>Subject to means-plus-function construction.</p> <p><b>Function:</b> fast propagation of node related information between the data plane means in each node and forwarding the information to the computing means in the network</p> <p><b>Structure:</b> 3:19-52 (switching fabric 214 and link interface 216 comprising a fast link state processor (FSLP) and a link failure database (LFDB) structure), 4:1-4, 7:18-20 (forwarding to CPU over link 236)</p>
6.	“means for fast propagation of node related information to and from the data plane means in other nodes in the network and forwarding the information to the computing means”	<p>Subject to means-plus-function construction.</p> <p><b>Function:</b> fast propagation of node related information between the data plane means in each node and forwarding the</p>



Terms for U.S. Patent No. 7,126,921		Preliminary Construction
		information to the computing means in the network  <b>Structure:</b> 3:19-52 (switching fabric 214 and link interface 216 comprising a fast link state processor (FSLP) and a link failure database (LFDB) structure), 4:1-4, 7:18-20 (forwarding to CPU over link 236)
7.	“means for fast propagation of link state information”	Subject to means-plus-function construction.  <b>Function:</b> fast propagation of link state information  <b>Structure:</b> 7:60-8:3 (FLSP 218, Fabric Interface 226 and Switch Fabric 214 structure for sending FSLMs), 8:21-27.
8.	“fast propagation”	Plain and ordinary meaning.

Group 3

6:20-cv-477-ADA

Terms for U.S. Patent No. 8,913,489		Preliminary Construction
1.	“end node”	Plain and ordinary meaning
2.	“a link aggregate”	Plain and ordinary meaning
3.	“the first set of ports”	Plain and ordinary meaning
4.	“the first set of port interfaces of the multi-chassis link aggregate”	Plain and ordinary meaning

6:20-cv-482-ADA

Terms for U.S. Patent No. 7,424,020		Preliminary Construction
1.	“removing, at the network node, the protocol data of a portion of protocol layers from the received data stream”	Plain and ordinary meaning
2.	“removes protocol data from a portion of protocol layers from a data stream”	Plain and ordinary meaning
3.	“a control unit which removes protocol data from a portion of protocol layers from a data stream received from the communication network via the second interface, the data stream comprising useful data and the protocol data, and switches a remaining data stream to be transmitted to one of the terminals via the first interface”	Plain and ordinary meaning
4.	“bus system”	Plain and ordinary meaning

Group 4

6:20-cv-474-ADA

Terms for U.S. Patent No. 7,212,536		Preliminary Construction
1.	“bridge” / “bridge port”	Plain and ordinary meaning
2.	“channel in a connection-based network”	Plain and ordinary meaning
3.	“means for reading priorities of data frames directed by the bridge to at least a first one of the bridge ports”	<p>Subject to means-plus-function construction.</p> <p><b>Function:</b> reading priorities of data frames directed by the drike to at least a first one of the bridge ports</p> <p><b>Structure:</b> bridge, and equivalents thereof</p>

Terms for U.S. Patent No. 7,212,536		Preliminary Construction
4.	“means for determining a number of the service interfaces associated with active channels in the connection-based network”	<p>Subject to means-plus-function construction.</p> <p><b>Function:</b> determining a number of the service interfaces associated with active channels in the connection-based network</p> <p><b>Structure:</b> bridge, and equivalents thereof; 2:26-34, 4:46-5:18, 5:19-27, 6:44-48, 7:45-56, 7:57-8:20</p>
5.	means for establishing a mapping between user priorities read by the means for reading priorities of data frames and the service interfaces associated with active channels in the connection-based network based at least in part on a number of the service interfaces associated with active channels in the connection-based network	<p>Subject to means-plus-function construction.</p> <p><b>Function:</b> establishing a mapping between user priorities read by the means for reading priorities of data frames and the service interfaces associated with active channels in the connection-based network based at least in part on a number of the service interfaces associated with active channels in the connection-based network</p> <p><b>Structure:</b> bridge, and equivalents thereof; 5:28-6:14, 6:15-47, 6:49-7:34, 9:8-17, 8:37-45, Figs. 4, 5A-I, 6.</p>
6.	means for assigning frames to the service interfaces based upon the user priorities and the mapping	<p>Subject to means-plus-function construction.</p> <p><b>Function:</b> assigning frames to the service interfaces based upon the user priorities and the mapping</p> <p><b>Structure:</b> bridge, and equivalents thereof; 6:15-25, 7:22-34, 7:57-8:21</p>
7.	“forwarding system configured to read a priority of a data frame to be forwarded onto the connection-based network by way of the first one of the ports, identify a service interface which the map indicates corresponds to the read user priority and forward the data frame over the channel	Plain and ordinary meaning

Terms for U.S. Patent No. 7,212,536		Preliminary Construction
	in the connection-based network associated with the identified service interface”	

6:20-cv-475-ADA

Terms for U.S. Patent No. 7,453,888		Preliminary Construction
1.	“stackable trunk port”	Plain and ordinary meaning
2.	“backbone VLAN Identifier (ID)”	Plain and ordinary meaning
3.	“backbone VLAN trunk”	Plain and ordinary meaning
4.	“wherein the selection and association of at least one backbone VLAN ID with each one of the corresponding plurality of backbone VLAN trunks is undertaken irrespective of one of an in-use and a stand-by designation of each one of the plurality of backbone VLAN trunks and each one of the plurality of stackable trunk ports” (claim 1) / “wherein the association of the plurality of backbone VLAN IDs with the backbone VLAN trunk is undertaken irrespective of one of an in-use and a stand-by designation of the backbone VLAN trunk and the at least one stackable trunk port” (claim 15)	Plain and ordinary meaning
5.	“associating each of the backbone VLAN ID with each one of the plurality of backbone VLAN trunks”	Plain and ordinary meaning



6:20-cv-476-ADA

Terms for U.S. Patent No 7,565,435		Preliminary Construction
1.	“setting the IPPC of one of the ports of one of said bridges within the MSTI to a lower IPPC when said port is part of the VLAN member set”	Plain and ordinary meaning
2.	“the Internal Port Path Cost (IPPC)”	Plain and ordinary meaning
3.	“Multiple Spanning Tree Protocol (MSTP) engine”	Plain and ordinary meaning
4.	“processing unit for setting the Internal Port Path Cost (IPPC) of one of the ports of one of said bridges within the MSTI to a high IPPC when said port is not part of the VLAN member set”	Plain and ordinary meaning
5.	“processing unit for setting the IPPC of one of the ports of one of said bridges within the MSTI to a lower IPPC when said port is part of the VLAN member set”	Plain and ordinary meaning
6.	“among the last ones” / “among the first ones”	Plain and ordinary meaning
7.	“ideally”	Plain and ordinary meaning
8.	“IEEE standard recommended value”	Plain and ordinary meaning
9.	“suppressing”	Plain and ordinary meaning
10.	Entirety of claims 9–11, 13–18	Plain and ordinary meaning

6:20-cv-479-ADA

Terms for U.S. Patent No. 8,402,129		Preliminary Construction
1.	“rate of change”	Plain and ordinary meaning



Terms for U.S. Patent No. 8,402,129		Preliminary Construction
2.	“initiating a poll of resources in the nodes of the network by the management station in response to reporting from the node or a time interval being exceeded”	Plain and ordinary meaning
3.	“time interval”	Plain and ordinary meaning

Dated: January 20, 2021

Respectfully submitted,

By: /s/ Ryan S. Loveless  
James L. Etheridge  
Texas Bar No. 24059147  
Ryan S. Loveless  
Texas Bar No. 24036997  
Brett A. Mangrum  
Texas Bar No. 24065671  
Travis L. Richins  
Texas Bar No. 24061296  
Jeff Huang  
Etheridge Law Group, PLLC  
2600 E. Southlake Blvd., Suite 120 / 324  
Southlake, TX 76092  
Tel.: (817) 470-7249  
Fax: (817) 887-5950  
Jim@EtheridgeLaw.com  
Ryan@EtheridgeLaw.com  
Brett@EtheridgeLaw.com  
Travis@EtheridgeLaw.com  
Jeff@EtheridgeLaw.com

Mark D. Siegmund  
State Bar No. 24117055  
mark@waltfairpllc.com  
Law Firm of Walt, Fair PLLC.  
1508 North Valley Mills Drive  
Waco, Texas 76710  
Telephone: (254) 772-6400  
Facsimile: (254) 772-6432

*Counsel for Plaintiff WSOU Investments, LLC*

**CERTIFICATE OF SERVICE**

A true and correct copy of the foregoing instrument was served or delivered electronically to all counsel of record via email on January 20, 2021.

/s/ Ryan S. Loveless  
Ryan S. Loveless